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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/647,833	10/05/2000	Kouichi Miyamoto	AA307F	4304

27752 7590 12/31/2003

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EXAMINER

STEPHENS, JACQUELINE F

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 12/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/647,833

Applicant(s)

MIYAMOTO ET AL.

Examiner

Jacqueline F Stephens

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 18.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1, and 3-11 as being anticipated by Saisaka have been considered but are moot in view of the new ground(s) of rejection.

Regarding claim 12, applicant's arguments are not persuasive. In response to applicant's argument that there is no suggestion to combine the references for the rejection of claim 12, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the examiner has relied on Osborn for a teaching of tensile strength in the traverse direction. Osborn provides this teaching, even though the value may be higher than the claimed value. However, applicant has not excluded a higher value or provided criticality for the claimed value that would exclude a higher value. Because Osborn provides a teaching that meets the value, the examiner contends the disclosure of Osborn reads on the claim. Additionally, Osborn teaches the tensile strength value is important for providing lateral stability, a characteristic that is desired in absorbent articles.

Claim Objections

2. Claim 11 is objected to because of the following informalities: the word "back sheet" in line 6 is misspelled. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1 and 3-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saisaka USPN 5624424 in view of Suzuki USPN 5246432. Saisaka discloses the

present invention substantially as claimed. However, Saisaka does not disclose a reinforcement nonwoven joined immediately adjacent to an inner-facing surface of the backsheet and to at least one of either the garment facing surface of the rear ear panels or the garment facing surface of the front ear panels. Saisaka instead discloses a film **21** immediately adjacent to an inner-facing surface of the backsheet and ear panels. Suzuki discloses a reinforcement sheet **10** made of nonwoven fabric having liquid barrier characteristics such as disclosed in the reinforcement film of Saisaka (Suzuki col. 3, lines 36-42). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the film of Saisaka with a nonwoven with barrier characteristics as taught in Suzuki. Doing so would provide lateral extensions with barrier properties that are soft to the touch and moisture permeable.

Saisaka/Suzuki discloses an absorbent article having a longitudinal center line and a lateral center line, an inner surface and a garment surface, comprising:

(a) a containment assembly having a rear waist region, a crotch region, a front waist region, a pair of longitudinal edges, a body-facing surface, and a garment-facing surface opposite the body-facing surface (Saisaka Figures 1 and 2). The containment assembly comprises a topsheet **14**, a backsheet **21** joined to the topsheet, and an absorbent core **15** positioned between the topsheet and the backsheet. The containment assembly further comprises a pair of barrier leg cuffs **17** (Saisaka Figures 7 and 8) having a proximal edge and a distal edge and being positioned adjacent to the longitudinal edges of the containment assembly.

(b) a pair of rear ear panels (Saisaka at area 8, Figure 2) extending laterally outwardly from the proximal edges of the barrier leg cuff in the rear waist region; and

(c) a pair of front ear panels (Saisaka at area 8, Figure 2) extending laterally outwardly from the proximal edges of the barrier leg cuff in the front waist region;

(d) a reinforcement nonwoven joined immediately adjacent to an inner-facing surface of the backsheet (Suzuki col. 3, lines 36-42) and to at least one of either the rear ear panels or the front ear panels so as to form a portion of the garment surface of the absorbent article, the reinforcement nonwoven not substantially overlapping the containment assembly. As shown in Figure 15 of Saisaka, the entire longitudinal length of the article includes the waist elastics 44/42, which extend further longitudinally than the reinforcement nonwoven (encompassed in element 2 – includes 10, 20, 21, and 22 Figure 5).

Regarding claims 3, 4, and 5, see Saisaka Figures 6 and 7.

Regarding claims 6 and 7, Saisaka/Suzuki discloses the reinforcement nonwoven further comprises a strip of continuous material joined to the longitudinal edges of the containment assembly (Saisaka Figure 6).

Regarding claim 8, see Saisaka Figures 6 and 7.

Regarding claim 9, see Saisaka Figure 6.

Regarding claim 10, Saisaka discloses the barrier leg cuff and the reinforcement nonwoven comprises hydrophobic nonwoven material (Saisaka col. 5, line 65 through col. 6, line 3; and the following references which set forth the materials for the non-

elastic nonwoven - col. 6, lines 38-45; col. 9, lines 62-65; and col. 10, lines 61-65; and col. 11, lines 33-53).

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saisaka USPN 5624424 in view of Suzuki USPN 5246432. Saisaka discloses the present invention substantially as claimed. However, Saisaka does not disclose a reinforcement nonwoven joined immediately adjacent to an inner-facing surface of the backsheet and to at least one of either the garment facing surface of the rear ear panels or the garment facing surface of the front ear panels. Saisaka instead discloses a film 21 immediately adjacent to an inner-facing surface of the backsheet and ear panels. Suzuki discloses a reinforcement sheet 10 made of nonwoven fabric having liquid barrier characteristics such as disclosed in the reinforcement film of Saisaka (Suzuki col. 3, lines 36-42). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the film of Saisaka with a nonwoven with barrier characteristics as taught in Suzuki. Doing so would provide lateral extensions with barrier properties that are soft to the touch and moisture permeable.

Saisaka/Suzuki discloses an absorbent article having a longitudinal center line and a lateral center line, an inner surface and a garment surface, comprising:

(a) a containment assembly having a rear waist region, a crotch region, a front waist region, a pair of longitudinal edges, a body-facing surface, and a garment-facing surface opposite the body-facing surface (Saisaka Figures 1 and 2). The containment

assembly comprises a topsheet **14**, a backsheet **21** joined to the topsheet, and an absorbent core **15** positioned between the topsheet and the backsheet. The containment assembly further comprises a pair of barrier leg cuffs **17** (Saisaka Figures 7 and 8) having a proximal edge and a distal edge and being positioned adjacent to the longitudinal edges of the containment assembly.

(b) a pair of rear ear panels (Saisaka at area **8**, Figure 2) extending laterally outwardly from the proximal edges of the barrier leg cuff in the rear waist region; and

(c) a pair of front ear panels (Saisaka at area **8**, Figure 2) extending laterally outwardly from the proximal edges of the barrier leg cuff in the front waist region;

(d) a reinforcement nonwoven joined immediately adjacent to an inner-facing surface of the backsheet (Suzuki col. 3, lines 36-42) and to at least one of either the rear ear panels or the front ear panels so as to form a portion of the garment surface of the absorbent article, the reinforcement nonwoven not substantially overlapping the containment assembly. The reinforcement nonwoven provides topsheet-like benefits in that the reinforcement nonwoven is moisture permeable.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saisaka in view of Suzuki and further in view of Osborn,III et al. USPN 5346486.

Saisaka discloses the present invention substantially as claimed. However, Saisaka does not disclose a reinforcement nonwoven joined immediately adjacent to an inner-facing surface of the backsheet and to at least one of either the garment facing surface of the rear ear panels or the garment facing surface of the front ear panels.

Saisaka instead discloses a film 21 immediately adjacent to an inner-facing surface of the backsheet and ear panels. Suzuki discloses a reinforcement sheet 10 made of nonwoven fabric having liquid barrier characteristics such as disclosed in the reinforcement film of Saisaka (Suzuki col. 3, lines 36-42). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the film of Saisaka with a nonwoven with barrier characteristics as taught in Suzuki. Doing so would provide lateral extensions with barrier properties that are soft to the touch and moisture permeable.

Saisaka/Suzuki discloses the present invention substantially as claimed. However, Saisaka does not disclose the reinforcement nonwoven having a tensile strength of at least 80gf/cm in the traverse direction of the absorbent article. Osborn discloses an absorbent article having reinforced side cuffs with a tensile strength of not more than 900 grams the benefit of providing an elastomeric material has lateral stability and prevents unintended lateral displacement of the absorbent article (Osborn col. 9, line 55 through col. 10, line 6). It would have been obvious to one having ordinary skill in the art at the time the article was made to modify the article of Saisaka/Suzuki to have the claimed tensile strength in the reinforcement nonwoven for the benefits disclosed in Osborn.

Saisaka/Suzuki/Osborn discloses an absorbent article having a longitudinal center line and a lateral center line, an inner surface and a garment surface, comprising:

(a) a containment assembly having a rear waist region, a crotch region, a front waist region, a pair of longitudinal edges, a body-facing surface, and a garment-facing surface opposite the body-facing surface (Saisaka Figures 1 and 2). The containment assembly comprises a topsheet **14**, a backsheet **21** joined to the topsheet, and an absorbent core **15** positioned between the topsheet and the backsheet. The containment assembly further comprises a pair of barrier leg cuffs **17** (Saisaka Figures 7 and 8) having a proximal edge and a distal edge and being positioned adjacent to the longitudinal edges of the containment assembly.

(b) a pair of rear ear panels (Saisaka at area **8**, Figure 2) extending laterally outwardly from the proximal edges of the barrier leg cuff in the rear waist region; and

(c) a pair of front ear panels (Saisaka at area **8**, Figure 2) extending laterally outwardly from the proximal edges of the barrier leg cuff in the front waist region;

(d) a reinforcement nonwoven joined immediately adjacent to an inner-facing surface of the backsheet (Suzuki col. 3, lines 36-42) and to at least one of either the rear ear panels or the front ear panels so as to form a portion of the garment surface of the absorbent article, the reinforcement nonwoven not substantially overlapping the containment assembly. The reinforcement nonwoven has a tensile strength of at least 80 gf/cm in the traverse direction (Osborn col. 9, line 53 through col. 10, line 6).

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F Stephens whose telephone number is (703) 308-8320. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703)308-1957. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.


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Art Unit: 3761

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Jacqueline F Stephens
Examiner
Art Unit 3761

A handwritten signature in black ink, appearing to be 'JFS', with a large loop and a checkmark-like flourish.

December 28, 2003

A handwritten signature in black ink, appearing to be 'Gldh', written in a cursive style.
GLENN K. DAWSON
PRIMARY EXAMINER